



# Terms of Business for the Provision of Administration Service

## 1. Introduction

These Terms of Business are produced for the benefit of customers of and entities administered by Key Trust Company Limited and/or its subsidiary or associate companies, and applies equally to all such, in order to set out the terms upon which we accept instructions and charge for the statutory compliance, responsibility and administration service ("Service") which we provide or arrange.

These Terms of Business will apply to all Service provided or arranged by us from 1 September 2004 and are to be read in conjunction with the Service Agreement signed by the customer. An "engagement" where referred to in these Terms of Business shall mean the company, trust, foundation or other entity or structure in relation to which the Service is provided.

We provide Service in order to meet the statutory and regulatory requirements applicable to engagements and entities and, where notified and agreed to by us the business objectives of each company or foundation, and for trusts under the laws of Jersey and other jurisdictions, we provide service at our discretion in order to fulfil the terms of the trusts and meet the statutory and regulatory requirements applicable under the laws governing the trusts.

Key Trust Company Limited is regulated by the Jersey Financial Service Commission and is licensed to conduct trust company business.

In order to manage the Service, we arrange for the affairs of each engagement to be looked after on a day-to-day basis by an officer who will undertake the Service we provide and be a point of contact in Jersey.

A director of Key Trust Company Limited is ultimately responsible for all the Service provided in respect of each engagement. If at any time any matters need to be discussed arising from the Service provided by Key Trust Company Limited, you should contact the director responsible.

## 2. Service

We shall arrange the provision of the Service to the engagement and we may nominate any company or person as we think fit to hold office or be employed in the administration of the affairs of each engagement.

In providing the Service:-

- (a) we shall not do anything or be required to do anything which in our opinion may conflict with the laws or regulations of Jersey or any other law applicable to an engagement or its business, or the constitutive documents, terms and conditions of a company, trust, foundation, partnership or similar, or expose Key Trust Company Limited or any of its agents, officers or employees to any risk of civil or criminal liability or prosecution in any part of the world;
- (b) we are not and do not hold ourselves out as being experts in the law of any jurisdiction nor do we hold ourselves out as having knowledge of the laws or regulations of any jurisdiction other than Jersey and, in particular, we do not provide advice on matters relating to taxation in any jurisdiction;
- (c) we shall regard the person(s) named in the Service Agreement as our customer (the "customer") for the purposes of these Terms of Business;
- (d) we shall keep confidential and ensure that all officers and employees of Key Trust Company Limited keep confidential all information concerning the engagement which is not publicly available and any transactions or matters in which the engagement may be involved or connected unless (i) we are required to disclose information concerning the engagement by virtue of the anti-money laundering laws of Jersey or other relevant jurisdictions or by any other laws of Jersey or pursuant to an order of the Jersey Courts or any other courts of competent jurisdiction or (ii) we are authorised to disclose any information by the customer or (iii) where we provide directors for a company, or trustees of a trust or foundation, we consider such disclosure to be necessary or appropriate in the furtherance of the interests of a company, trust or foundation or (iv) the information concerned is already in the public domain other than by reason of any disclosure on our part;
- (e) we shall not be required or under a duty to disclose any information we may have or be deemed to have about any matter affecting the engagement or customer which we may have acquired in the course of acting for or providing service to any other engagement or customer or in any way;
- (f) where we provide directors, trustees or other officers, they will be entitled to approve contracts or arrangements to be entered into between the engagement and ourselves and shall not be required to account to the engagement or the customer for any fees received by them in so acting;
- (g) where we are requested to travel to meetings the expenses are chargeable separately as

disbursements and the standard of travel will be business class by air, first class by rail and group C or with driver by car;

- (h) where we deem it necessary we may engage specialist firms or individuals to undertake any part of the engagement.

### **3. Indemnities and Liabilities**

Whilst we shall use our reasonable endeavours and exercise due care in carrying out the Service and our duties neither we nor any of our officers or employees shall be liable for any loss or damage arising out of the performance of the Service or our duties unless we have been guilty of fraud, wilful misconduct or gross negligence in performing the Service or carrying out our duties.

We shall be entitled to an indemnity from the engagement, subject always to the provisions of Jersey Law, against all liabilities, actions, costs, proceedings, accounts, claims or demands brought against us or any of our officers or employees in connection with the performance of the Service or generally in connection with the affairs of the engagement unless any such liability and/or costs shall have been incurred as a result of fraud, wilful misconduct or negligence on our part or on the part of the officers or employees nominated by us for the engagement. The indemnities and exoneration provisions set out in these Terms of Business or in the Service Agreement shall be in addition to and shall not be restricted by (nor shall they restrict) any other indemnity or exoneration provisions in or which relate to the engagement to which we are entitled.

In the case of a trust or foundation, we shall have the benefit of the indemnities as set out in the deed and shall be entitled to such further indemnities as we think appropriate in the event of our retiring or distributing all or part of the assets.

### **4. Service Agreement**

A Service Agreement is to be entered into whereby we agree to provide the Service and the customer agrees to be bound by these Terms of Business.

### **5. Termination**

We may terminate the provision of the Service in any of the following circumstances:-

- (a) Upon our giving thirty days' written notice.
- (b) Immediately on written notice if we, in our absolute discretion, consider that:
- (i) the company or foundation is insolvent or liable to be declared en désastre or subject to a

- creditors' (insolvent) winding up or any equivalent or similar procedure in any other jurisdiction;
- (ii) the engagement or customer is in breach of the terms of the Service Agreement;
- (iii) there has been a change of beneficial ownership of the engagement;
- (iv) where the engagement, any of its trustees, officers or senior employees not provided by us, or the customer has been charged with any criminal offence involving dishonesty or is or has been the subject of any criminal, judicial or regulatory investigation in any jurisdiction;
- (v) there is a failure to supply such due diligence or anti-money laundering information as we shall require, or the information supplied is false or misleading;
- (vi) we consider it necessary or appropriate to terminate the Service because of a conflict of interest that has arisen;
- (vii) our fees have remained unpaid in whole or part for more than 90 days after the invoice date.

The customer may terminate our engagement to provide the Service on giving us one month's written notice and providing us with a suitable alternative service provider.

Upon the termination for any reason of the Service which we provide, the customer shall immediately give us details of a new administrator, new directors and other officers, an address in Jersey to be the registered office of the company (if the engagement is a Jersey company) and the address to which we may transfer the books and records. We shall be entitled to retain such part of the assets of any engagement as we believe to be necessary for the payment or discharge of liabilities whether actual or contingent or otherwise.

In the event of this information not being provided to us on the termination of the Service, we reserve the right to arrange the resignation of the directors and officers we provide without appointment of successors and to transfer any shares held by nominees which we provide into the name or name(s) of the beneficial owner(s) of such shares. We shall be entitled to charge fees at our usual rates for any work done in the transfer of the administration of the company.

## **6. Payment Terms**

All fees and expenses will be due for settlement in sterling on the appropriate billing dates.

We shall have the right in all cases where the engagement concerned has liquid assets under the control of Key Trust Company Limited, including where this is due to the provision of trustees or directors by Key Trust Company Limited, to arrange payment of all standard fees, any fixed fees and any other liabilities incurred or to be incurred in connection with the engagement immediately on issue or demand out of such liquid assets without authority from the person to whom the invoice is rendered or the customer. We shall also have the right in such cases to arrange payment of all additional administration fees invoiced for such service, as requested or pre-agreed after 30 days from the invoice date.

Where any fees remain outstanding for more than 90 days beyond their invoice date, Key Trust Company Limited reserves the right to cease providing any Service until all outstanding fees have been settled and an amount has been received on account of future standard fees. By ceasing to undertake any service in respect of the engagement any correspondence addressed to the engagement will remain unanswered and any returns needed to be filed to keep the engagement in good standing in Jersey or in any other jurisdiction will not be dealt with, but Key Trust Company Limited shall incur no liability as a result.

## **7. Client Monies**

Funds paid by clients to Key Trust Company Limited may be received into the Key Trust Company Limited clients' account.

All funds held on the Key Trust Company Limited clients' account will not earn interest in favour of the customer and only remain on the clients' account until the engagement has its own bank account.

## **8. Commissions**

Save as otherwise agreed in writing between the customer, the engagement and Key Trust Company Limited, Key Trust Company Limited and its subsidiaries or associates will be entitled to retain any commissions or other payments customarily or by usage payable as a result of transactions entered into for the account of or in relation to the engagement without liability to account therefore.

## **9. Address for Communications**

In the event of our needing to give any notices to the engagement and/or the customer in the performance of the Service or pursuant to these Terms of Business, or if we otherwise need to communicate with the customer, we shall do so by way of letter, fax, email or telephone to the

customer at the address or number stated in the personal details of the customer (or at any other address or number later notified in writing to us as the address of the customer.

#### **10. Retention and Storage of Files and Papers**

After termination (for whatever reason) of the provision of the Service, we are entitled to retain all papers and documents which have come into existence in the course of our providing the Service until all fees and disbursements have been settled in full.

Subject to payment in full of all fees and disbursements, we will in cases where a successor administrator has been appointed liaise with that administrator to provide all such original documents as may be reasonably required by the successor administrator. We will retain copies of all documents and we reserve the right to require payment for our reasonable copying charges in advance of providing such documents.

Thereafter, we will keep all documents, correspondence, memoranda and notes that have been created in the course of our provision of the Service, for ten years. During this period we reserve the right, but have no obligation, to make electronic copies of any such documents, correspondence, memoranda and notes and, save for original signed documents, we reserve the right to destroy hard copies and store the remainder of the filing electronically. After ten years our continued retention (whether in electronic form or otherwise) of files of papers and documents (other than originals) is on the clear understanding that we have been instructed to do so at or prior to the termination of our provision of the Service. When we are instructed to retain files beyond the ten year period, we reserve the right to charge for doing so. By signing the Service Agreement, we will treat the customer as having consented to the destruction of such files.

If after the termination of our provision of the Service we receive from any person entitled to do so a specific request for information concerning a matter in relation to the provision of the Service and/or a request to retrieve specific documents and other papers, we reserve the right to charge for such service.

#### **11. Data Protection and Registration**

We are registered as a holder of personal data in relation to our customers and contacts under the Data Protection (Jersey) Law, 1987 (and any subsequent replacement legislation). Any person may at any time request a copy of any personal data that we hold in electronic form about that person. We reserve the right to use any data for marketing and promotion of services offered by Key Trust Company Limited and its' associated companies unless requested in writing not to do so.

#### **12. Identity of Clients and Anti-Money Laundering Procedures**

As a matter of law, we are required to operate anti-money laundering checks and procedures in respect of the provision of the Service. We will apply such checks and procedures (including in particular

confirmation of source of funds and identity and address/place of business of customers and directors not provided by us and verification of capacity to give instructions) in respect of all aspects of the provision of the Service. Any failure to provide such information as we request in order to enable us to carry out such checks entitles us to terminate or suspend the provision of the Service and we accept no responsibility or liability arising directly or indirectly as a result of our need to do this. Any information and documentation provided to us in order to enable us to operate such checks and procedures may be subject to disclosure and production pursuant to orders having legal effect in Jersey or pursuant to Law. In certain circumstances we are required to disclose information and documentation in respect of anti-money laundering procedures and "know your client procedures" that we have undertaken in respect of our provision of the Service to third parties such as banks providing service to such engagement. By providing such information as we require, each person will be taken to have consented to our onward disclosure of such information to third parties where appropriate.

### **13. Variation and Publication of these Terms of Business**

We reserve the right to vary these Terms of Business from time to time including during the course of provision of the Service. Where we do vary these Terms of Business in the course of provision of the Service, we shall use reasonable efforts to draw to the customer's attention any such variation.

### **14. Service provided by Key Trust Company Limited and other Agents**

Where, in the course of our provision of the Service, we consider that it is necessary or appropriate to seek advice as to Jersey Law upon any matter, we reserve the right to use the service of lawyers to provide such advice and the fees may be shown as a disbursement on our next invoice or be billed separately.

We also reserve the right wherever we consider that it is necessary or appropriate in providing the Service, to delegate any of our responsibilities or functions to, or to seek advice from, any third party or agent, in all cases where this is not inconsistent with the provisions of the Service Agreement. In all such matters the fees and commissions of such third party or agent may be shown as a disbursement on our next invoice, or be billed separately.

### **15. Working for other Customers**

We reserve the right to provide Service in respect of any other engagements at our discretion. Our agreement to provide the Service for a particular engagement shall not be treated as meaning that we will not provide similar service for other engagements, including in connected matters, or as preventing any associated company from acting for other parties to transactions in which the engagement is involved.

We shall, however, ensure that where in the course of providing the Service we become aware of or hold confidential information, this will be adequately safeguarded and will not at any time be used

against the interests of the engagement in connection with which we acquired such information. In any cases where we consider there may be any conflict of interest in our acting in more than one capacity, we have complete discretion to determine whether we may continue to act in all or any such capacities with the consent of any relevant parties or (if we consider it appropriate) of the Royal Court of Jersey, or whether we should cease to provide the Service to any one or more engagements in respect of any transaction or generally, and continue to provide the Service to or for other engagements. In the event that we decide to terminate the provision of the Service to any engagement in these circumstances we shall not be liable for any expenses or loss arising from such termination, including but not limited to any loss arising from a lost opportunity for the engagement or the customer.

## 16. Questions or Complaints

We hope that any questions or concerns that may arise in respect of the Service which we provide to the company may be satisfactorily resolved by discussions between the customer and the director of Key Trust Company Limited responsible for the engagement's affairs. We will attempt to answer all complaints, including questions as to the amounts billed, fully and promptly. In the event of any dissatisfaction, issues may also be referred to our compliance officer (name available on request), who may refer them to a director not otherwise involved in the company's affairs for independent review. We are required to maintain a record of all complaints, which is available for inspection by officers of the Jersey Financial Service Commission.

Should any dispute be incapable of being resolved in this way then the Courts of Jersey shall have exclusive jurisdiction to hear such complaint or dispute applying Jersey Law in all such matters. These Terms of Business shall be governed by and construed in accordance with Jersey Law.